

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.3503 of 2025

Applicant : Bashir Ahmed, Through: Mr. Noor Zaman Domki, advocate.

Complainant : Wazir Ali in person.

The State : The State: Through Mr. Qamar-u-Din Nohri, Deputy Prosecutor General, Sindh

Date of hearing : 17.03.2026

Date of Order : 17.03.2026

ORDER

Jan Ali Junejo, J:-- This bail application under Section 497 Cr.P.C. has been filed by the applicant Bashir Ahmed, who seeks post-arrest bail in connection with FIR No.1442/2025, registered under Section 489-F PPC at Police Station Shah Latif, Karachi. The applicant has challenged the order dated 18.11.2025 passed by the learned District & Sessions Judge, Malir, Karachi, whereby his bail application was declined.

2. As per contents of the FIR, the complainant Wazir Ali, an advocate by profession, alleged that the applicant, being his acquaintance, approached him on 08.09.2025 and requested a loan of Rs.40,00,000/-. Upon insistence, the complainant advanced the said amount for a period of 15 days and an agreement was executed. In consideration thereof, the applicant issued two cheques bearing Nos. 00245088 and 00245089 dated 22.09.2025 for Rs.20,00,000/- each. Upon presentation, both cheques were dishonored on 23.09.2025 due to insufficient funds, whereafter the instant FIR was lodged.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated with mala fide intention. It is argued that, in fact, the complainant had only paid an amount of Rs.4,50,000/- in installments for business investment and not Rs.40,00,000/- as alleged. He further argued that two blank cheques were forcibly obtained from the applicant as security, which were later misused by inserting inflated amounts. It is also contended that there are material contradictions between the contents of the FIR and the prior application submitted to the police, creating serious doubts. Learned counsel further argued that the alleged agreement is not attested and carries no legal sanctity, and that even otherwise the offence does not fall within the prohibitory clause of Section 497 Cr.P.C. Lastly, it is submitted that the applicant is a permanent resident, has no previous criminal record, and is ready to furnish surety; hence, he prayed for grant of bail.

4. Conversely, learned Deputy Prosecutor General, duly assisted by the complainant, opposed the bail application and contended that there exists a written agreement between the parties, duly signed by witnesses, which clearly establishes the loan transaction of Rs.40,00,000/-. It is further argued that the dishonor of cheques is supported by bank record, which is an independent piece of evidence. It is contended that the applicant issued the cheques in discharge of his liability, which were dishonored due to insufficient funds, thereby attracting the provisions of Section 489-F PPC. Learned DPG submitted that a strong prima facie case exists against the applicant and prayed for dismissal of the bail application.

5. I have heard learned counsel for the parties, examined the record and considered the submissions advanced. It is an admitted position that the offence alleged against the applicant falls under Section 489-F PPC, which does not fall within the prohibitory clause of Section 497 Cr.P.C. In such like cases, the grant of bail is a rule and refusal is an exception, subject to the facts and circumstances of each case. Tentative assessment of the record reflects that the case primarily rests upon documentary evidence i.e., agreement and dishonored cheques. The defence of the applicant, inter alia, is that the cheques were issued as blank security instruments and have been misused by the complainant. This plea, coupled with the contention regarding discrepancy between the earlier application and contents of FIR, creates arguable points which require deeper appreciation of evidence at trial. It is also significant that the liability arising out of a financial transaction, even if taken at its face value, has predominant civil flavor. The question whether the amount was Rs.40,00,000/- or Rs.4,50,000/- and whether the cheques were issued towards discharge of liability or as security are matters which cannot be conclusively determined at bail stage.

6. Furthermore, no useful purpose would be served by keeping the applicant behind bars when the case is based on documentary evidence, already in possession of the prosecution, and there appears no likelihood of tampering with the same. No exceptional circumstance has been shown which may justify denial of bail. It is a settled principle of law that deeper appreciation of evidence is not permissible at bail stage and any doubt, even tentative, is to be

resolved in favour of the accused. In case where bail was granted in an offence under Section 489-F, P.P.C. i.e., *Ali Anwar Paracha v. The State and another (2024 SCMR 1596)*, the Honourable Supreme Court of Pakistan held that: *"In this view of the matter, the question whether the cheque was issued towards fulfilment of an obligation within the meaning of section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The petitioner is behind the bars since his arrest. The maximum punishment provided under the statute for the offence under section 489- F, P.P.C. is three years and the same does not fall within the prohibitory clause of section 497, Cr.P.C. It is settled law that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception"*. In another similar offence under Section 489-F, P.P.C., in the case of *Muhammad Anwar v. The State and another (2024 SCMR 1567)*, the Honourable Supreme Court of Pakistan was pleased to grant bail by observing that: *"In view of the above, the question whether the cheques were issued towards repayment of loan or fulfilment of an obligation within the meaning of Section 489-F, P.P.C. is a question, which would be resolved by the learned Trial Court after recording of evidence. The maximum punishment provided under the statute for the offence under Section 489-F, P.P.C. is three years and the same does not fall within the prohibitory clause of Section 497, Cr.P.C. It is settled law that grant of bail in the offences not falling within the prohibitory clause is a rule and refusal is an exception"*.

7. In view of the above discussion and for the reasons recorded hereinabove, the instant bail application is allowed. The applicant Bashir Ahmed S/o. Ghulam Rasool Gujjar is admitted to post-arrest

bail subject to furnishing solvent surety in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) and P.R. bond in the like amount to the satisfaction of the trial Court. Observations made hereinabove are tentative in nature and shall not prejudice the case of either party at trial. These are the detailed reasons for the Short Order dated: 17.03.2026.

JUDGE